IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL

Criminal Misc. Application No. 704 of 2006

Manoj Giri S/o Shri Prakash Giri
R/o C/o Dabal Singh Bhandari
Village Badowala, Bhaniawala
Police Station Doiwala, Dehradun
District Dehradun ..... Applicants

Vs.

1. State of Uttaranchal through
   Principal Secretary of Home
   Dehradun
2. Shri Dinesh Oberai S/o Shri V.K. Oberai
   R/o 16 Lunia Mohalla
   Police Station Kotwali, Dehradun
   District Dehradun .... Opposite Parties

Sri A.M. Saklani holding brief of Sri Sandeep Tandon, learned counsel for the petitioner.
Learned A.G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the petitioner – Manoj Giri who is facing the trial in a case Complaint Case No. 820 of 2005 Dinesh Oberai Vs. Manoj Giri under Section 138 Negotiable Instrument Act pending in the court of Additional Civil Judge IInd / Judicial Magistrate, Dehradun.

2. Brief facts of the case are that the complaint was filed by the respondent No. 2 – Dinesh Oberai against the petitioner for the offence under Section 138 Negotiable Instrument Act. The court after having been satisfied, summoned the petitioner vide order dated 14.06.2005 to face the trial under Section 138 Negotiable Instrument Act. The petitioner thus challenged the summoning order as well as prayed for quashing the entire aforesaid criminal proceedings pending against him.

3. Heard Sri A.M. Saklani holding brief of Sri Sandeep Tandon, learned counsel for the petitioner, learned A.G.A. for the State and perused the record.

4. Having considered the arguments advanced by the learned counsel for the parties, I am of the view that there is no abuse of process of the court in this case. The averments made in the petition are the disputed question of fact, which can be assessed and judged by the trial court. I am not supposed to embark upon an enquiry with regard to the credibility of the evidence at this stage. Any judgment rendered by me would amount to premature judgment where the evidence is still incomplete and hazy.

5. The petition lacks merit and is liable to be dismissed.

6. Accordingly, the petition under Section 482 Cr. P.C. is dismissed in-limine.

(B.C. Kandpal, J.)

29.08.2006
ASWAL